

# Jesselyn Radack at FFF Conference 2008, 4 of 6

<https://www.youtube.com/watch?v=loxqkrJ8OJU> (<https://www.youtube.com/watch?v=loxqkrJ8OJU>)

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(<https://www.youtube.com/channel/UCqOG4zIDmbIUk12Fzwg5tLA>) on Thu Sep 25 2008.

Jesselyn Radack on "Conscience Over Career: The Prosecution of the American Taliban" at the Future of Freedom Foundation's <http://fff.org> Restoring the Republic, 2008.

Jesselyn Radack is a former U.S. Department of Justice ethics adviser who came to prominence as a whistleblower after she objected to the government's treatment of John Walker Lindh (the "American Taliban" captured during the 2001 invasion of Afghanistan), having argued that, since a lawyer had been retained to represent him, he could not be interrogated without that lawyer present.

Playlist of Radack's lecture: [http://www.youtube.com/view\\_play\\_list?p=8098DDCFDF68A64D](http://www.youtube.com/view_play_list?p=8098DDCFDF68A64D)

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I ended up serving on the DC barred legal ethics committee even though oddly i'm still under investigation by the DC bar it's just emblematic of this cough guest world that we're living in right now I have been giving ethics advice in other terrorism related cases most recently one of the few surviving cases on national surveillance warrantless wiretapping it's all involving an Islamic charity called al haramain and they know that they were spied on and how do they know this they actually have proof of it why because the government screwed up and turned over a transcript of their telephone calls to them so they're one of the few plaintiffs that can actually prove they were spied on but then the government basically shut down their case by claiming state secrets privilege and the ethics issue came in because they tried to appeal that decision and to appeal it they had to write the appellate brief in a special government room on a government computer they were not allowed to keep a draft of what they wrote though they had to turn it over to the government the government prosecutor was involved in supervising this special little government room brief writing session and at the end they shredded the banana peel of one of the attorneys representing all Haramain and they decided to destroy the hard drive with the leg of a table in another demonstration of professionalism so I

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demonstration of professionalism so I wrote an article on the legal ethics implications of having the litigation security group babysit the brief writing of a party opponent in a terrorism case so yes I'm still very involved in it num I work for a government watchdog group the Government Accountability Project right now representing whistleblowers and I've dedicated my life to that if I could add a short anecdote that might be of some interest after nine eleven at the independent Institute we were trying to figure out what we could do to get public attention to what we could see as a real threat to American Society in the world and so we decided to put on an event featuring Gore Vidal and had a number of people in the panel with Gore including Bob Higgs who's here and we had a huge turnout in San Francisco sold out even at scalpers and afterward I got to email notes attacking us for doing this only two one was from brink Lindsey at the Cato Institute and the second one was from Henry Holzer's wife Erica holzer co-signed Ashley by both of them Henry holzer was the attorney for ein Rand and was setting up a website to go after Lynde as being this epitome of treason demanding the death penalty and the incident to me just dramatized the absurdity and the the insanity that was steeping over American society and so I wasn't sure if you'd ever had a run-in with the Holzer's because they were leading this charge and of course

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leading this charge and of course Paulson's Holzer was this attorney who allegedly was for due process in the rule of law I thought it meant was particularly interesting and of course confirmed my suspicions of many of the people in the ran movement the first place but in any event I wasn't sure if you'd had a run-in with these people because they were the vitriol that I got was the most extreme I've gotten since nine eleven and I'll never forget that I haven't run into them or dealt with them I can say that this experience has created strange bedfellows but I ended up one of my attorneys is going to be a speaker think tomorrow Bruce Fein who had been our Reagan's a Reagan Republican and worked at the Justice Department under Reagan and I ended up teaming up with a lot of people on that you know a different political stripe and I also have gotten a lot of even I am on an editorial the other day and I still get hate mail why don't you spend more time writing about the terrorists who try to kill us why don't you spend more time you know writing about the people who've been killed by the terrorists and I say you know I actually have written about that stuff and site to my numerous pouring Law Review articles but I'm talking about justice writ large I mean was part of a larger it's no no not a bit like some bleeding-heart sympathy for John Walker Lindh or not it for me it was never about John Walker Lindh personally I don't know him don't know what he was doing over there but it was about the rule of law and following the rules and not taking shortcuts and doing stuff by the book after all I worked for the Justice Department and we were

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Justice Department and we were simultaneously prosecuting Arthur Andersen for destruction of evidence and obstruction of justice so thank you very much Jess Linens my name is Sally Hayes from Gainesville Florida and I have a question because you found out so early that he had not been allowed to have a lawyer and are they bypassed it and also that you had evidence of that did you appear at his trial did I go to his you know did you appear as one of the witnesses no actually his case never went to trial because on the eve of the suppression hearing that was going to bring out to the open who did what to him and how it was going to reveal a lot of the torture that was when the White House order discovery be shut down and that this could be given a deal and to EDD for this not to go to trial I think they could have I mean potential potentially called me as an you know stole witness or an adverse witness I would have been willing to just tell the truth about my personal experience because this case didn't go to trial a lot of this stuff ends up getting told in the media okay what happened behind the scenes what happened to the emails who issued the order to shut down the discovery process which for those of you who are lawyers know is an integral part of our adversarial system of justice one just follow-up question to that was is that evidence strong enough that they judge immediately when he heard that would have dismissed the case that he had that due process hadn't taken place this it was before Judge Ellis in the Fourth Circuit who was not enamored with

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Fourth Circuit who was not enamored with Lind and it was a very conservative very conservative law and order pro-government judge I don't I mean if all the truth had been out that we know now yes I think it would have been dismissed by even a junior green defense attorney but you have to remember there was like this hysteria after 911 understandably so a lot of us have lost people in 911 I was downtown when it happened it was horrible and it was just kind of a vengeance that permeated the Justice Department and I think a lot of other portions of the government a lot of other agencies and I think that seeped over and has seeped over into a Congress and we have a Congress right now that has all of the power and none of the well we have a judiciary the rubber stamps everything and then we have an executive that has his unitary executive theory that they control everything and they have so again I don't think many judges were willing to take a different view at that point and he happen to have a very conservative pro-government judge

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